

**IN THE HIGH COURT OF TELANGANA AT HYDERABAD**

**W.P.No.24358 OF 2023**

**Between:**

Chinala Mahesh & another

... **Petitioners**

**And**

The State of Telangana & others

... **Respondents**

**JUDGMENT PRONOUNCED ON: 03.06.2024**

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA**

1. Whether Reporters of Local newspapers : Yes  
may be allowed to see the Judgment?
2. Whether the copies of judgment may be : Yes  
marked to Law Reporters/Journals?
3. Whether Their Lordships wish to : Yes  
see the fair copy of the Judgment?

---

**SUREPALLI NANDA, J**

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA****W.P.No.24358 OF 2023****% 03.06.2024****Between:**

# Chinala Mahesh &amp; another

**... Petitioners****And**

\$ The State of Telangana &amp; others

**... Respondents**

&lt; Gist:

&gt; Head Note:

**! Counsel for the Petitioners** : Mr.J.Suresh Babu**^ Counsel for Respondents** : Govt. Pleader for Energy for R1  
Mr.R.Vinod Reddy, for R2 and R3  
Mr.S.Malla Rao, for R4

? Cases Referred:

- (1) 2023 LiveLaw (SC) 453
- (2) (2011) 12 Supreme Court Cases 314
- (3) 2022 LiveLaw 570

**HON'BLE MRS JUSTICE SUREPALLI NANDA****WRIT PETITION No.24358 OF 2023****ORDER:**

Heard Mr.J.Suresh Babu, learned counsel appearing on behalf of the petitioners, learned Government Pleader for Energy appearing on behalf respondent No.1, Mr. R. Vinod Reddy, learned Standing Counsel for TSSPDCL, appearing on behalf of respondent Nos. 2 and 3 and Mr.S.Malla Rao, learned counsel appearing on behalf of respondent No.4.

2. The petitioners approached the Court seeking prayer as under:

" ... to call for the records by issuing an appropriate writ, order or direction, more particularly one in the nature of writ of Mandamus declaring the action of the 3<sup>rd</sup> respondent herein unilaterally removal of poles laid down and also stopped the supply of current applications on 25.06.2020 vide their application Reg. No.NR908203081056 with PR Number 90806057322 NR908203081044 with PR Number:90806057321 under Agriculture category for electricity new service connection to an extent of Ac.8-20 Gts., out of Ac.17-00 Gts having Dakhala number 554 bearing Sy.No. "O" situated at Badeshaguda H/o.Bogaram

Village, Keesara Mandal, Medchal-Malkajgiri District is being arbitrary, illegal, violative of Articles 14, 21A and 300-A of the Constitution of India and pass..."

**3. The case of the Petitioners, in brief, as per the averments made in the affidavit filed by the Petitioners in support of the present writ petition, is as under :**

a) The petitioners' late father Ramulu along with his brother has purchased the subject land admeasuring Ac.17.00 gts., having Dakhala Number 554 bearing survey No."O" from Meer Mehdi Ali Khan, who is the Maqtadar of the said land about 35 years back and got the said land through Muntakhab issued by Nazim Atiyyaat vide order dated 23.03.1956 in File No.5338, and since then the father of the petitioners and his brother are in continuous possession and enjoyment of the said lands.

b) Thereafter, the petitioners' father along with his brother had applied for Occupancy Right Certificate under Section 8 of Inam's Abolition Act, 1955. On receipt of application for issuance of Occupancy Rights Certificate, the learned Revenue Divisional Officer, East Division Ranga Reddy District, gave notice to the effected parties and also directed the then Mandal Revenue Officer, Keesara to submit a report on the application of father of the petitioners.

c) The Mandal Revenue Officer, Keesara submitted a report and on receipt of objections by the 4<sup>th</sup> respondent and also by the brother of 4<sup>th</sup> respondent, the Revenue Divisional Officer conducted detailed enquiry. Upon completion of enquiry, Occupancy Rights Certificate was granted in File No.J/5358/1998 dated 12.06.2000 rejecting the claim of the father of the petitioners that the survey Number 'O' was officially recognized by Nazim-e-Zamabandi and sanctioned Ain-Izafa and the boundaries of the subject property are different and distinct from that of the land of the 4<sup>th</sup> respondent and his brother herein. Thereafter, the Joint Collector, Ranga Reddy District vide Order dated 05.10.2004 in File No.F1/5730/2000 cancelled the Occupancy Rights Certificate issued to the petitioners and also cancelled the ORC issued in favour of the 4<sup>th</sup> respondent and his brother on the ground that the land in question is a grazing land treating the same as Government land.

d) Further it is the case of the petitioners that the petitioners made online separate applications on 25.06.2020 vide their application Reg.No.NR908203081056 with PR Number 90806057322, NR908203081044 with PR Number: 90806057321 under Agriculture category for electricity new service connection but the said application was not considered. The petitioners on

12.04.2023 applied for New Connection under Agricultural Category vide Online application Reg.No.NR90823864074 and another application vide Reg.No.NR 90823864048. However, the respondents failed to consider the applications of the petitioners. Hence the present writ petition.

#### **PERUSED THE RECORD**

**4. Section 43 of the Electricity Act, 2003 reads as under:**

"Section 43. (Duty to supply on request)  
(1)(Save as otherwise provided in this Act, every distribution) licensee, **shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply:**

#### **DISCUSSIN AND CONCLUSION:**

5. It is the specific case of the petitioners that the petitioners made separate online applications on 25.06.2020 vide their application Reg.No.NR908203081056 with PR Number 90806057322, NR908203081044 with PR Number: 90806057321 under Agriculture category for electricity new service connection and when no orders had been passed on the said applications, the petitioners again applied for new connection under Agriculture category under separate applications dated 12.04.2023 vide Online Application Reg.No.NR90823864074 and

another application vide Reg.No.NR 90823864048. In fact in response to the petitioners applications, the 3<sup>rd</sup> respondent had even laid the poles but at that stage the 4<sup>th</sup> respondent made a representation stating that writ petitions are pending on the file of the High Court for adjudication and basing on the said representation of the 4<sup>th</sup> respondent, the 2<sup>nd</sup> respondent in turn directed the 3<sup>rd</sup> respondent not to supply current to the petitioners agricultural fields and now the respondents are trying to remove the poles which are nearer to the petitioners fields as the free current is supplied under Agriculture category and the petitioners lands are getting dried up. Aggrieved by the same, the petitioners filed the present writ petition seeking a direction to the 2<sup>nd</sup> and 3<sup>rd</sup> respondents to restore the power supply immediately to petitioners bore wells which had been disconnected without any notice or calling for any explanation to an extent of Ac.8-20 gts., out of Ac.17-00 Gts., having Dakhala Number 554 bearing Sy.No."O", situated at Badeshaguda, H/o. Bogaram Village, Keesara Mandal, Medchal-Malkajgiri District.

6. Mr.R.Vinod Reddy, learned counsel appearing on behalf of the respondents 2 and 3 submits that as per Section 43 of the Electricity Act, 2003, the owner as well as occupier has a right for power supply through Electrical Service Connection.

**7. The Apex Court in the Judgment reported in 2023 LiveLaw (SC) 453 in between K.C.Ninan Vs. Kerala State of Electricity Board and others passed in Civil Appeal Nos.2109 and 2110 of 2004, dated 19.05.2023, observed as under:**

**"Electricity Act, 2003; Section 43** - The duty to supply electricity under Section 43 is with respect to the owner or occupier of the premises. The 2003 Act contemplates a synergy between the consumer and premises. Under Section 43, when electricity is supplied, the owner or occupier becomes a consumer only with respect to those particular premises for which electricity is sought and provided by the Electric Utilities."

**8. The Apex Court in its Judgment reported in (2011) 12 Supreme Court Cases 314 in between Chandu Khamaru Vs. Nayan Malik and Others passed in Civil Appeal No.7575 of 2011 dated 02.09.2011 observed as under:**

Sub-section (1) of Section 42 and sub-section (1) of Section 43 of the Electricity Act, 2003 are quoted herein below:

"42. Duties of distribution licensees and open access-(1) It shall be the duty of a distribution licensee to develop and maintain an efficient co-ordinate and economical distribution system in his area of supply and to supply electricity in accordance with the provisions contained in this Act."

"43. Duty to supply on request-(1) Save as otherwise provided in this Act, every distribution licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply."

**7.** It will be clear from sub-section (1) of Section 42 that every distribution licensee has a duty to develop and maintain an



efficient co-ordinated and economical distribution system in his area of supply and to supply electricity in accordance with the provisions contained in this Act. Sub-section (1) of Section 43 provides that every distribution licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply. These provisions in the Electricity Act, 2003 make it amply clear that a distribution licensee has a statutory duty to supply electricity to an owner or occupier of any premises located in the area of supply of electricity of the distribution licensee, if such owner or occupier of the premises applies for it, and correspondingly every owner or occupier of any premises has a statutory right to apply for and obtain such electric supply from the distribution licensee.

**12.** The case of the appellant, on the other hand, is that this passage is not a private passage of respondent Nos.1 to 3 but is a common passage and therefore an electric line can be drawn through this common passage. This dispute will have to be resolved in Civil Suit No.83 of 2004 pending in the Court **of Civil Judge (Junior Division), Howrah, or in any other suit, but pending resolution of this dispute between the parties, the appellant cannot be denied supply of electricity to his house.**

**11.** We, therefore, set aside the order of the learned Single Judge as well as the impugned order of the Division Bench and dispose of the Writ Petition of respondent nos.1 to 3 with the direction that the distribution licensee will find out whether there is any other way in which electric line can be drawn for supply of electricity to the house of the appellant, other than the disputed passage in Dag Nos.406, 407 and 409. If there is no other way to supply electricity to the house of the appellant, the distribution licensee will follow the provisions of sub-section (2) of Section 67 of the Electricity Act, 2003 for carrying out the work for supply of electricity to the house of the appellant.

**9. The Apex Court in the Judgment reported in 2022 LiveLaw 570 in between Dilip (dead) through LRs Vs. Satish and others passed in CRLA No.810 of 2022 (arising**

out of Special Leave petition (CRL)No.8917 of 2019, dated

13.05.2022 observed as under:

"It is not disputed that applicant No.1 has obtained the connection of electricity. The submissions made show that applicant No. 1 is in possession of the shop and he is running a saloon shop. It is clear that he needs electricity for doing this business, but the first informant was not giving no objection certificate. He took every step to see that applicant No. 1 does not get supply of electricity for his business. It is not the case of the Applicant No. 1 that as per the agreement between him and landlord, the landlord is bound to supply the electricity. Further, the Electricity Board seeks no objection of landlord only to verify that the possession of the tenant is authorised. There is no other purpose behind obtaining such no objection from landlord. The landlord cannot prevent the tenant from availing such facility at his own cost.

**It is now well settled proposition of law that electricity is a basic amenity of which a person cannot be deprived. Electricity cannot be declined to a tenant on the ground of failure/refusal of the landlord to issue no objection certificate. All that the electricity supply authority is required to examine is whether the applicant for electricity connection is in occupation of the premises in question.** Be that as it may, the High Court clearly fell in error in quashing the FIR. It cannot be said that fabrication and/or creation of records and/or forging a signature does not constitute an offence under the Indian Penal Code. The High Court completely overlooked the definition of cheating in Section 415 of the IPC. It is however made clear that electricity supply granted, shall not be discontinued, subject to compliance by the Respondents of the terms and conditions of supply of electricity by the electricity department including payment of charges for the same."

10. **Taking into consideration:**

(a) The observations of the Apex Court in the judgments referred to and extracted above,

**(b) Duly considering Section 43 of the Electricity Act, 2003, and**

**(c) Duly considering the submissions made by the learned Standing Counsel appearing on behalf of respondent Nos.2 and 3,**

**The writ petition is allowed, directing the respondents 2 and 3 to provide power supply to the petitioners on the applications made by the petitioners on 25.06.2020, 12.04.2023 vide Reg.No.NR908203081056 with PR Number 90806057322, NR908203081044 with PR Number: 90806057321, Reg.No.NR90823864074 and another application vide Reg.No.NR 90823864048, under Agriculture category for electricity new service connection to an extent of Ac.8-20 Gts., out of Ac.17-00 Gts., having Dakhala number 554 bearing Sy.No.'O' situated at Badeshaguda, H/o. Bogaram Village, Keesara Mandal, Medchal-Malkajgiri District, within a period of two (02) weeks from the date of receipt of copy of the order subject to the petitioners complying with all the requirements as per rules in force, including payment of the necessary charges. However, there shall be no costs.**

Miscellaneous petitions, if any, pending in this Writ  
Petition, shall stand closed.

---

**SUREPALLI NANDA, J**

Date: 03.06.2024

**Note** : L.R. Copy to be marked.  
B/o. *Yvkr*